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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,877	10/26/2001	Gregory Owen Miller	9DDW19324CIP	1751

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EXAMINER

LUGO, CARLOS

ART UNIT PAPER NUMBER

3677

DATE MAILED: 10/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/682,877

Applicant(s)

MILLER ET AL.

Examiner

Carlos Lugo

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 18 September 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on September 18, 2002.

Specification

2. The specification is objected to because of the following informalities:

- Abstract Line 3, change "said" as --the--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:
 - The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
4. **Claims 1-5 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the first direction". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1-19 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 2,948,560 to Rop in view of US Pat No 4,776,620 to Marks et al (Marks).

Regarding claims 1,6,7,11 and 19, Rop discloses a latch assembly comprising a handle (20) pivotally mounted to a door for rotation about a first end (axis 21 at an end of the handle).

A latch actuator (14) is in contact relation with the handle and mounted to the door for rotation about an end (axis 15 at an end of the latch).

The handle rotates in a first direction and the actuator rotates in a second direction opposed to the first one.

A keeper (11) is engaged to a door retainer projection (16) in a closed position. The actuator is configured to disengage the keeper from the door retainer projection when the handle is actuated.

However, Rop fails to disclose that the keeper is resilient and that the latch assembly is used in a dishwasher. Rop discloses that the latch actuator is resilient and the keeper rigid and that the latch mechanism is for a refrigerator, but could be used for other applications (Col. 1 Lines 19-23).

Marks teach a similar latch mechanism for a dishwasher that has a resilient keeper (60) and a rigid actuator.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a resilient keeper and a rigid actuator in a dishwasher latch assembly, as taught by Marks, into a latching device as described by Rop, because it will be consider as a design consideration that will not affect the fact of engaging the keeper to the actuator.

As to claim 2, Rop illustrates that the handle comprises an actuator portion in sliding engagement with the latch actuator (the portion at the end of the handle).

As to claim 3, Rop illustrates that the handle further comprises a closed handle stop (the end of the handle near the pivot 21).

As to claim 4, Rop discloses that the handle rotates about a first longitudinal axis (21) and the actuator rotates about a second longitudinal axis (15).

As to claims 5 and 9, Rop illustrates that the handle and the actuator are placed on a housing or bracket.

As to claim 8, Rop discloses that the latch actuator comprises a keeper engagement surface (16) wherein the keeper engagement surface disengages the keeper from the door retainer projection as the latch handle is rotated.

As to claim 10, Rop illustrates that the latch handle comprises a substantially rounded engagement portion (at the end of the handle 20) in contact with the latch actuator.

As to claim 12, Rop illustrates that the latch handle comprises an actuator portion (at the end of the handle 20) in contact with the latch actuator.

As to claim 13, Rop illustrates that the handle and the actuator are placed on a housing or bracket.

As to claim 14, Rop illustrates that the latch actuator (14) comprises a substantially flat plate.

As to claim 15, Rop illustrates that the latch handle further comprises a closed handle stop (the end of the handle near the pivot 21).

As to claim 16, Rop discloses a door assembly comprising an escutcheon. A latch handle (20) is pivotally mounted to the escutcheon about a first longitudinal axis (21). A latch actuator (14) is pivotally mounted to the escutcheon about a second longitudinal axis (15). The handle rotates in a first direction and the actuator rotates in a second direction opposed to the first one.

As to claim 17, Rop discloses that the escutcheon includes a latch portion (16). Rop illustrates that the latch handle further comprises a closed handle stop (the end of the handle near the pivot 21).

As to claim 18, Rop illustrates that the latch actuator (14) comprises a substantially flat plate.

Response to Arguments

7. Applicant's arguments filed September 18, 2002 have been fully considered but they are not persuasive.

Regarding applicant's arguments that Rop fails to disclose, "a handle pivotally mounted to the door about a first end and a latch contacting the handle and mounted to the door for rotation about a second end", Rop discloses the invention as claimed.

Rop discloses that the handle is pivotally mounted to the door about a first end (an end of the handle) and a latch contacting the handle and mounted to the door for rotation about a second end (an end of the latch).

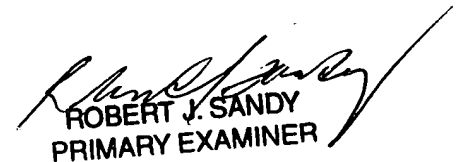
As to applicant's arguments regarding that the handle rotates in one direction and the latch in a direction opposed to the handle rotation, Rop illustrates it in Figure 1.

As to applicant's arguments regarding that the keeper is a resilient keeper, Marks teaches a resilient keeper.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo. The examiner phone number is (703)-305-9747. The fax number for correspondence before a final action is (703)-872-9326 and the fax number for correspondence after final action is (703)-872-9327. The email direction of the examiner is carlos.lugo@uspto.gov. The examiner can normally be reached on Monday to Friday from 9:30am to 6:30pm (EST). If the examiner is not available, please leave a message, including the application number and the examiner will answer the message as soon as possible.

October 7, 2002


ROBERT J. SANDY
PRIMARY EXAMINER